

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JAY PATRICK NOVERO
TX-1350035-L

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DOCKETED COMPLAINT NO.
12-244

AGREED FINAL ORDER

On the 9th day of November, 2012, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the license of Jay Patrick Novero (the "Respondent").

In order to conclude this matter, Jay Patrick Novero neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Jay Patrick Novero is a Texas state licensed real estate appraiser who holds license number TX -1350035-L, and was licensed by the Board during all times material to the above-noted complaint.
2. During Respondent's experience audit in conjunction with his application for certification as a residential appraiser he submitted appraisal reports for real property located at: 4724 Carolina Trace, Arlington, Texas 76244 ("the Carolina property") and 3310 Edgewater Court, Arlington, Texas 76016 ("the Edgewater property").
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules") and that he submitted false information to the Board during the course of the experience audit.
4. Thereafter the Board, in accordance with the mandate of the Administrative Procedure Act (the "APA"), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Carolina Trace property:

- a) USPAP Ethics Rule (Record Keeping) – Respondent failed to comply with the USPAP ethics rule because he failed to maintain a work file containing all data, information, and documentation necessary to support the appraiser's opinions and conclusions;
- b) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to report the correct zoning classification;
- c) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of the site value; and,
- d) USPAP Standards 1-1(b) and 2-1(a) – Respondent failed to disclose his significant assistance and participation as an appraiser trainee in the appraisal report.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Edgewater property:

- a) USPAP Ethics Rule (Record Keeping) – Respondent failed to comply with the USPAP ethics rule because he failed to maintain a work file containing all data, information, and documentation necessary to support the appraiser's opinions and conclusions;
- b) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to report the correct zoning classification;
- c) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of the site value; and,
- d) USPAP Standards 1-4(a) & 2-2(b)(viii) – Respondent failed to provide support for his adjustments in the sales comparison approach; and,
- e) USPAP Standards 1-1(b) and 2-1(a) – Respondent failed to disclose his significant assistance and participation as an appraiser trainee in the appraisal report.

7. As part of the experience audit that Respondent submitted to the Board in connection with his application to the Board, Respondent added his name to the appraisal reports for appraisals in which he participated, so that it appeared that his name was included when the report was prepared, when it actually was not so included. Even though the appraiser signing the reports should have included Respondent's name at the time the reports were prepared, the Board considers Respondent's addition of his name when he submitted the reports to the Board to be misleading.

8. During all times material to the findings in these proceedings, Respondent was either an appraiser trainee or recently state licensed appraiser. During this timeframe Respondent had little experience in the appraisal profession and was relying to a large extent on the guidance and direction of Barton Landon Gardner, who was both his employer and a more experienced, state certified appraiser.

9. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(2) by specifically violating 22 TEX. ADMIN. CODE §153.9(e) by submitting misleading information in an application to the Board.

4. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts.

5. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Within six (6) months of the effective date of this order (i.e. on or before May 16th, 2013), Respondent shall complete six (6) hours of in-person mentorship conducted by a certified USPAP instructor approved by the staff of the Texas Appraiser Licensing and Certification Board's Standards and Enforcement Services Division. Upon completion of the requisite mentorship hours, and within six (6) months of the effective date of this order, Respondent shall submit on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours;
- b. Fully cooperate with the Board's ongoing investigation of Bart Landon Gardner, TX-1333054-R, including providing all requested information and documentation Respondent may have in an accurate and truthful manner, until the resolution of the contested case proceeding. If necessary, as requested by Petitioner's staff, Respondent will also provide truthful, complete and accurate testimony about his involvement with Bart Landon Gardner, TX-1333054-R, and any dealings, information, documents and knowledge Respondent has about any and all appraisal reports claimed as

experience in his application for certification, the experience audit submissions he made to Petitioner and Mr. Gardner's appraisal practice in general;

- c. Pay to the Board an administrative penalty of \$1,000.00;
 - i. The \$1,000.00 administrative penalty shall be fully probated under the condition that Respondent fully and timely comply with all of the provisions of this Agreed Final Order;
- d. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
- e. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION of the Respondent's license pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent complies with the terms of this order and provides adequate documentation of same to the Board.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING

FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 17 day of September, 2012.

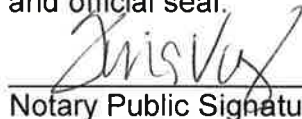


JAY PATRICK NOVERO

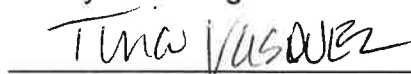


DON WALDEN, ATTORNEY FOR
JAY PATRICK NOVERO

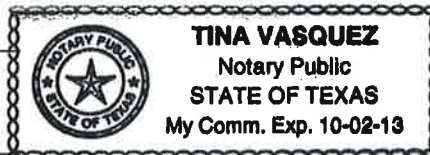
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 17th day of September, 2012, by JAY PATRICK NOVERO, to certify which, witness my hand and official seal.



Notary Public Signature



Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 13th day of November, 2012.



Kyle Wolfe, TALCB Staff Attorney

Signed by the Commissioner this 9th day of November, 2012.



Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 9th day of November, 2012.



Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board